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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 000702

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TAGS: [PREL](#) [PGOV](#) [NP](#)

SUBJECT: SPEAKER CONCEDES KEY ELECTION LAWS, MINORITY  
BUY-IN STILL LACKING

Classified By: Ambassador James F. Moriarty for reasons 1.4(b/d).

Summary

1. (C) Interim Parliament Speaker Subash Nemwang informed the Ambassador April 4 that the Parliament needed to pass two more electoral laws before the June 20 Constituent Assembly (CA) elections: the CA Court bill, which would create a special court to hear electoral disputes, and the CA Member Election bill, which would detail the electoral system and inclusion of ethnic and marginalized groups. Nemwang indicated that the Government of Nepal (GON) had reached agreement on the CA Court bill, but that discussion had only just begun on the more important and politically-charged CA Member Election bill. He hoped that both bills would be passed by mid-April. He suggested that GON dialogue with Madhesi and ethnic groups was "in theory only," although he was meeting personally with these groups. He agreed that the re-appointment of Home Minister Sitaula would make satisfying Madhesi groups more difficult. The Ambassador emphasized the need to include ethnic groups and impose law and order to ensure free and fair elections.

Electoral Laws Incomplete

2. (SBU) On April 4 the Ambassador discussed the status of the electoral laws for the June 20 Constituent Assembly (CA) election and progress on dialogue with Madhesi and Janajati (ethnic minority) groups with Speaker of the Interim Parliament Subash Nemwang. Nemwang reported that the Interim Parliament had passed three of the five electoral laws: the Election Commission law, Crime and Punishment law, and Voter Registration law. Two bills remained: the Constituent Assembly Court bill, which would create a special court to hear electoral disputes, and the Constituent Assembly Member Election bill. The Government of Nepal (GON), including the Election Commission and Parliament, had reached agreement on the CA Court bill, but discussion on the CA Member Election bill had only just begun. Nemwang indicated that both bills would be passed within one or two weeks.

The CA Member Election Bill

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13. (C) Nemwang stressed that the CA Member Election bill was the most important and politically-charged of the electoral laws as it would detail the electoral system regarding balloting (some sort of combination of first-past-the-post and proportional representation), the number of constituencies, and the inclusion of ethnic minorities. The Ambassador commented that some observers who had reviewed both the first and second drafts of the CA Member Election bill had criticized the failure of the second draft to mandate inclusion of ethnic minorities through proportional representation. Nemwang replied that the Election Commission (EC) had also said that the second draft was not the same as the version it had submitted to the Cabinet, suggesting that the GON had changed the language. Nemwang worried that, if the CA Member Election bill were passed in its current form, the Madhesi and ethnic groups would initiate a second wave of protests and demonstrations. "The bill must be amended," he added.

#### Dialogue with Ethnic Minorities Insufficient

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14. (C) Nemwang noted that the package of amendments to the Interim Constitution passed March 9 addressed some of the concerns raised by the Madhesi and ethnic minorities, but acknowledged that more inclusion was necessary to ensure successful elections. Nemwang seemed concerned that government discussions with the Madhesi and ethnic groups had been "in theory only." He said he was meeting personally with Madhesi and other ethnic groups, as well as women, in an

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attempt to address their concerns. The Ambassador asked whether the re-appointment of Home Minister Krishna Prasad Sitaula would make this process more difficult, to which Nemwang replied in the affirmative.

#### Free and Fair Elections Possible?

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15. (C) The Ambassador expressed the opinion that two main issues needed to be addressed before free and fair elections would be possible: the GON had to incorporate the concerns of ethnic minorities and the Maoists had to renounce violence. If the political process were not set up to incorporate the views of Nepal's marginalized groups or Maoists failed to give up violence and extortion, then elections would not succeed, he said. The international community needed to proclaim that elections could not be free and fair if Maoist abuses continued unabated. Even if elections were technically possible, massive Maoist intimidation in the run-up to elections would derail the process. The government had to follow through with its threat to arrest any person carrying arms after April 8, the Ambassador added. Nemwang welcomed the Ambassador's assurances that the U.S. would do everything possible to ensure free and fair elections. The Ambassador emphasized the need to hold free and fair Constituent Assembly elections, even if delayed.

#### Comment

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16. (C) Post hopes that Speaker Nemwang was right when he predicted the Interim Parliament could pass the remaining two electoral laws in one or two weeks. Perhaps. The bigger question is whether these laws will be accepted by Madhesi and other marginalized ethnic groups. We share his concerns that a new wave of protests could erupt if political parties and the Maoists attempt to renege on their promises of inclusion. The Prime Minister told us that Nemwang would host a national dialogue on ethnic issues, but it has yet to be launched. Meanwhile, the commission charged with delineating constituencies for the elections has only just

started its work. Under the circumstances, getting an acceptable law on election districts and methods could take more than two weeks.

MORIARTY